

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
)	EB Docket No. 04-296
Review of the Emergency Alert System)	
)	

**REPLY COMMENTS OF
TELECOMMUNICATIONS FOR THE DEAF AND HARD OF HEARING, INC.
ASSOCIATION OF LATE-DEAFENED ADULTS;
DEAF & HARD OF HEARING CONSUMER ADVOCACY NETWORK;
NATIONAL ASSOCIATION OF THE DEAF; AND
HEARING LOSS ASSOCIATION OF AMERICA**

Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), through its undersigned counsel; Association of Late-Deafened Adults (“ALDA”); Deaf & Hard of Hearing Consumer Advocacy Network (“DHHCAN”); National Association of the Deaf (“NAD”); and Hearing Loss Association of America (“HLAA”, collectively, “Commenters”) submit their Reply Comments in response to the Federal Communications Commission’s (the “Commission”) Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced proceeding.¹ Commenters previously filed comments to the Commission’s FNPRM.²

I. REPLY COMMENTS

Commenters agree with the FNPRM comments filed by the Society of Broadcast Engineers (“SBE”), WGBH National Center for Accessible Media and the Rehabilitation Engineering Research Center on Telecommunications Access (“WGBH/RERC-TA”), the

¹ *In the Matter of Review of the Emergency Alert System*, First Report and Order and Further Notice of Proposed Rulemaking, EB Docket No. 04-296 (rel. Nov. 10, 2005).

² Comments of Telecommunications for the Death and Hard of Hearing, Inc., et al, *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296 (filed Jan. 24, 2006) (“FNPRM Comments”).

Consumer Electronics Association, and a number of other organizations, that the Commission consider the following precepts in developing a comprehensive, authoritative, effective, and time-efficient Emergency Alerting System (“EAS”): (1) adopt the Common Alerting Protocol (CAP) format; (2) create multipoint distribution links from government warning originators to Warning System Origination Points to eliminate the current broadcast daisy chain; (3) create EAS performance standards; (4) provide federal funding and training for a national system; and (5) mandate that all electronic devices have EAS warning capability.

Commenters further agree with the comments of WGBH/RERC-TA that the integration of the Commission’s rules and requirements to include both telecommunications relay services and video relay services in the design of a next-generation emergency alert system is highly desirable.³ As the WGBH/RERC-TA comments state, “[n]ot only would this [integration] further serve the goal of a single, comprehensive, coherent and mandatory system of national, state, and local emergency alert requirements, but it would include potentially valuable resources and technologies these services provide, such as text-to-voice, speech-to-speech, voice and hearing carry-over, IP relay and video relay.”⁴

Commenters also support the summary statement of WGBH/RERC-TA that “[a]ny new EAS rule issued by the Commission must include a cohesive and consistent approach to ensure that people with disabilities are served equally as well as the general population” and that “existing rules must be clarified where necessary and more firmly enforced when ignored.”⁵ In

³ Comments of WGBH National Center for Accessible Media and the Rehabilitation Engineering Research Center on Telecommunications Access, *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296, at 13, (filed Jan. 24, 2006) (“WGBH/RERC-TA FNPRM Comments”).

⁴ *Id.*

⁵ See WGBH/RERC-TA FNPRM Comments at 14.

support of these goals, Commenters commend the Commission for fining several Florida and California broadcast television stations for not timely captioning emergency alerts when disasters hit those areas. The Commission's enforcement efforts should deter future captioning abuses by broadcast stations responsible for providing emergency information and will further ensure that those who are deaf or hard of hearing receive real-time emergency information.

Commenters note that the majority of the FNPRM comments fully support the broadcast use of open captions for the deaf and hard of hearing. It is imperative that captions be open, easy to see and comprehend during the broadcast of emergency information. Commenters also support the broadcast of emergency information, where appropriate, in languages other than English, when there is a substantial population in the affected broadcast area in need of an emergency alert in their native language.

Mandatory plans, along with periodic training, would ensure that local, state, and national officials are better prepared during emergencies. It is imperative that as part of this planning, persons who are deaf, hard of hearing, or disabled, be consulted in how to best assist individuals with these types of disabilities. It is also imperative that the next generation EAS technology be designed, developed, and monitored with input from persons who are deaf or hard of hearing, so that they can ensure routine and easy access to emergency information for persons with hearing disabilities. Commenters stand ready to offer their expertise on behalf of its membership to the Commission, Department of Homeland Security, and other federal agencies in developing an effective and time-efficient national emergency alert system that can serve as a model for and coordinate with established state and local emergency systems.

A. The Commission Should Require that Emergency Alert System Messages Are Broadcast on All Available Platforms.

In response to the Commission's FNPRM on the Emergency Alert System, many interested parties filed comments related to the development of a comprehensive EAS. While some comments argued that an EAS should not be expanded to cover all broadcast platforms, Commenters agree with the comments submitted by TFT, Inc. ("TFT") and SBE that Common Alerting Protocol ("CAP") should be established as the open standard used to distribute public warnings from government entities to public distribution systems. SBE's comments argue that a next-generation system utilizing the text-based CAP will present the fewest technical challenges in implementing specialized alerting outputs for diverse audiences. CAP's format can readily be displayed on computers and most wireless devices, can be converted to video using standard character-generation technology, and allows the basic text alert to be supplemented with optional images, audio, video and other rich-media content.⁶

TFT's comments state that a CAP generated message could contain a field of data that could be displayed in addition to that information derived from the translation of header codes of an EAS message. This same field of data could be printed or displayed for operators in the aural services, and could be serially transmitted to other layers such as cellular telephones and PDAs. TFT argues that the process could be done automatically without the need for additional intervening personnel to construct a field of data in real time directly from an audio transmission.⁷

⁶ Comments of the Society of Broadcast Engineers, *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296, at ¶ 80 (filed Jan. 24, 2006) ("SBE FNPRM Comments").

⁷ Comments of TFT, Inc., *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296, at 8 (filed Jan. 20, 2006) ("TFT FNPRM Comments").

Commenters believe that the Commission should adopt a format that would allow the transmission of EAS messages to reach the greatest number of people utilizing as many broadcast formats as possible. If the CAP format would allow the dissemination of EAS messages to reach the greatest number of people, particularly those who are deaf or hard of hearing, then the Commission should adopt the CAP format as the uniform format for all EAS messages.

B. Participation in EAS for Wireless Carriers and IPTV Providers Should Not Be Voluntary.

Many commenters assert that participation in the EAS program for wireless carriers and IPTV providers should be voluntary. T-Mobile, for example, states that “allowing carriers technological flexibility in offering emergency alerts to their customers will allow alerts to become a new basis for competition and product differentiation...as this would provide more incentives to pursue new innovations, furthering the public’s interest in development of ever more advanced alerting technologies.”⁸

Commenters strongly urge the Commission to reject the wireless carriers’ attempts to make EAS a part of their business models or marketing campaigns. Emergency alerts should not be a basis for product differentiation and competition. Rather, Commenters strongly believe that wireless carriers should be required to broadcast EAS messages. Such an action is in the

⁸ Comments of T-Mobile USA, Inc., *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296, (filed Jan. 24, 2006) (“T-Mobile FNPRM Comments”), at 10-11; Comments of Sprint Nextel, *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296, (filed Jan. 24, 2006) (“Sprint Nextel FNPRM Comments”); Comments of BellSouth Entertainment, *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296, (filed Jan. 24, 2006) (“BellSouth FNPRM Comments”); Comments of the Rural Cellular Association, *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296, (filed Jan. 24, 2006) (“RCA FNPRM Comments”).

public's interest because EAS broadcasts may save thousands or hundreds of thousands of lives in an emergency situation.

In reference to requiring EAS for telephone companies that provide video programming services, BellSouth argues that it is not necessary or prudent for the Commission to impose additional EAS obligations on telephone companies that deliver "high definition digital content to customers' homes through fiber optic connections."⁹ BellSouth states further that "there is nothing about telco-delivered video (whether via copper or fiber) that would justify imposing EAS obligations over and above those imposed on other multi-channel video service providers."¹⁰

Commenters strongly disagree with the positions advanced by BellSouth. Commenters believe that telco-delivered video and multi-channel video service providers should have the same obligations regarding EAS. Commenters agree with the comments of Verizon that "it will be important to ensure that all consumers receive the benefits and protections of EAS, regardless of the technology used to deliver the video services."¹¹ As Commenters stated in our FNPRM Comments, over time, more consumers will likely utilize the television programming services offered by telephone companies. Accordingly, the Commission should apply EAS obligations to telephone companies to ensure that the largest possible number of consumers are alerted in case of an emergency.¹² The Commission should ensure that those who are deaf or hard of hearing have equal access to emergency information as the rest of the general public. By requiring telephone

⁹ BellSouth FNPRM Comments at 3-4.

¹⁰ *Id* at 4.

¹¹ Comments of Verizon, *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296, at 2 (filed Jan. 24, 2006) ("Verizon FNPRM Comments").

¹² FNPRM Comments at 4-5.

companies that provide video services to provide public alert and warning systems now, the Commission will ensure uniform coverage for all members of the public in the future.

C. Requiring Aural and Visual Broadcast of EAS is a Good Use of Resources.

In its comments, the National Association of Broadcasters (“NAB”) urges the Commission to refrain requiring audio transcription of EAS messages because it is a de facto real-time captioning requirement that would impede the timely dissemination of emergency information.¹³ NAB also states that because of inherent limitations of real-time steno-captioning services and the severe constraints emergencies place on broadcast resources, participation in the EAS could very well act as a deterrent to the dissemination of information about state and local emergencies.¹⁴ Furthermore, NAB stated that “if the Commission requires that the video feed match the audio, it will render current EAS equipment, and the EAS-generated video text messages, obsolete.”¹⁵

Commenters stress that to effectively disseminate information during an emergency to all individuals, including those who are deaf or hard of hearing, the Commission must require that video programming distributors broadcast EAS messages in both aural and visual formats. As Commenters stated previously, both formats (visual and audio) should be required at all times in order to provide functional equivalency.¹⁶ Currently, to make EAS messages fully accessible to individuals with hearing and visual disabilities, the Commission encourages EAS message originators such as FEMA and state emergency operations centers to provide EAS messages in both

¹³ See Comments of the National Association of Broadcasters Comments, *In the Matter of Review of the Emergency Alert System*, Further Notice of Proposed Rulemaking, EB Docket No. 04-296, at 7-12 (filed Jan. 24, 2006). (“NAB FNPRM Comments”).

¹⁴ *Id.* at 7.

¹⁵ *Id.* at 7-8.

¹⁶ FNPRM Comments at 6.

audio and visual formats. The Commission should also require video programming distributors to broadcast EAS messages in both formats. Again, Commenters believe that any such cost would be off-set by (1) the benefits of a comprehensive real-time alert system; and (2) the relevant infrequent use of such system.

D. Wireless Carriers Should Not Be Permitted to Charge Customers a Fee for EAS Broadcasts.

In its comments, the Rural Cellular Association (“RCA”) suggests if the Commission “mandates that wireless carriers transmit EAS messages over their networks, the Commission must conform its mandate to the nature of wireless service as defined by the Communications Act. Thus, wireless carriers must be authorized to provide EAS service to their subscribers for ‘a fee’... or ‘for profit’...”¹⁷

Commenters strongly condemn RCA’s proposed approach and urge the Commission to reject any attempt by wireless carriers or others to charge customers for broadcasting EAS messages. As Commenters previously stated, “[t]he EAS has to take into account an increasingly mobile society and build the infrastructure to notify the public accordingly.”¹⁸ Wireless carriers should not be permitted charge fees or make profits by broadcasting EAS messages. While some cost considerations could be made for rural carriers and other carriers that serve a limited population market, charging any fees to customers for the provision of EAS is unacceptable. Furthermore, the imposition of fees by wireless carriers to broadcast EAS will require customers, in effect, to choose whether to receive EAS messages. This would be a danger to public safety and would potentially create a divide between those customers who can afford to pay the fee and those who cannot. The Commission does not want to establish a public policy of “EAS for a

¹⁷ RCA FNPRM Comments at 11.

¹⁸ FNPRM Comments at 4.

fee.” Commenters are unaware of any other providers which are permitted to charge customers a fee for EAS broadcasts. Therefore, the Commission should not permit wireless carriers to charge a fee or make a profit from EAS broadcasts.

II. CONCLUSION

Commenters support the Commission’s continuing efforts to update EAS in order to protect the interests of the public with hearing and speech disabilities. Commenters strongly urge the Commission to update EAS in a manner consistent with the recommendations contained in these Reply Comments.

Respectfully submitted,

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